

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #5	CCRB Case #: 201700180	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/21/2016 7:30 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 107	18 Mo. SOL 4/21/2018	EO SOL 4/21/2018	
Date/Time CV Reported Mon, 01/09/2017 12:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/09/2017 12:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Ernst	16255	917585	107 PCT
2. POF Tina Trotta	11793	955598	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Ernst	Discourtesy: Police Officer Michael Ernst spoke discourteously to § 87(2)(b)	
B.POM Michael Ernst	Abuse: Police Officer Michael Ernst threatened to arrest § 87(2)(b)	
C.POM Michael Ernst	Abuse: Police Officer Michael Ernst entered § 87(2)(b) § 87(2)(b) in Queens, New York.	
D.POF Tina Trotta	Abuse: Police Officer Tina Trotta refused to provide her shield number to § 87(2)(b)	
E.POF Tina Trotta	Discourtesy: Police Officer Tina Trotta spoke discourteously to § 87(2)(b)	
F.POF Tina Trotta	Off. Language: Police Officer Tina Trotta made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

Case Summary

§ 87(2)(b) initially reported this incident to IAB on October 24, 2016 but she did not make any FADO allegations and it was therefore not referred to the CCRB. On January 9, 2017, § 87(2)(b) called the undersigned, who at the time was investigating a prior complaint (CCRB #201610201) filed by § 87(2)(b) and asked to file a complaint regarding this incident. On October 21, 2016, § 87(2)(b)'s son, § 87(2)(b) § 87(2)(b) allegedly took her dog. § 87(2)(b) called 911 because she feared that § 87(2)(b) may have sold her dog in exchange for money to buy heroin. Police Officers Michael Ernst and Tina Trotta, both from the 107th Precinct, arrived at her apartment located at § 87(2)(b) in Queens. PO Ernst allegedly told § 87(2)(b) that she did not call the police and that he had received calls that she was “acting out in the corridor” and was “acting crazy.” (**Allegation A**) PO Ernst allegedly told § 87(2)(b) that she needed to go to the hospital. § 87(2)(b) stated she was going to call 911 and request a captain’s presence. PO Ernst allegedly said, “If you don’t want to go to the hospital, I have to arrest you.” (**Allegation B**) § 87(2)(b) asked, “For what?” PO Ernst allegedly responded, “You’re resisting police.” § 87(2)(b) tried to close the door. PO Ernst allegedly stuck his foot inside of § 87(2)(b)'s apartment to prevent her from closing the door. (**Allegation C**) § 87(2)(b) said, “I’ll go.” While walking down the stairs of her building, § 87(2)(b) allegedly asked PO Trotta, “Can I please have your shield number?” PO Trotta told her that she’d get it downstairs. While they were downstairs waiting for the ambulance, § 87(2)(b) again asked PO Trotta for her shield number. PO Trotta allegedly responded, “Fucking bitch, we’ll go to the hospital and get it.” (**Allegations D, E, F**) § 87(2)(b) was not arrested or summonsed as a result of this incident. There is no video footage available of this incident. § 87(2)(b)'s other case with the undersigned, Case#201610201, is scheduled to be reviewed by Panel 3A-2017 on April 21, 2017.

Mediation, Civil and Criminal Histories

- § 87(2)(b)
- As of March 7, 2017, § 87(2)(b) has not filed a notice of claim regarding this incident. (Board Review 01)
- § 87(2)(b) has no criminal convictions. (Board Review 02)

Civilian and Officer CCRB Histories

- § 87(2)(b)

§ 87(2)(b)

- § 87(2)(b)

Potential Issues

- On January 17, 2017, § 87(2)(b) called the undersigned 17 times. § 87(2)(b) was highly upset and emotional. § 87(2)(b) was upset that the undersigned took pictures of her but she was never able to take a picture of the undersigned. § 87(2)(b) made multiple comments about the undersigned being Jewish. § 87(2)(b) stated, “Go fuck yourself” to the undersigned. § 87(2)(b) accused the undersigned of lying about being Jewish and stated, “You’re § 87(2)(b) and you’re fucking § 87(2)(b)”

Findings and Recommendations

Allegation A–Discourtesy: Police Officer Michael Ernst spoke discourteously to § 87(2)(b)

Allegation B–Abuse of Authority: Police Officer Michael Ernst threatened to arrest

§ 87(2)(b)

Allegation C–Abuse of Authority: Police Officer Michael Ernst entered § 87(2)(b) in Queens

It is undisputed that PO Ernst and PO Trotta arrived at § 87(2)(b)’s apartment and that she had a conversation with PO Ernst. It is undisputed that PO Trotta did not speak to § 87(2)(b) at this time. It is undisputed that § 87(2)(b) voluntarily agreed to go to the hospital. § 87(2)(g)

In her testimony at the CCRB, § 87(2)(b) stated that when she opened her door to speak to PO Ernst and PO Trotta, she was happy and said, “Oh, I called for you!” (Board Review 05) PO Ernst responded in an aggressive tone of voice, “No you didn’t call. Somebody said that you were in the corridor acting out in the corridor.” PO Ernst did not specify what this entailed but stated § 87(2)(b) was “acting crazy.” § 87(2)(b) denied being out in the corridor. PO Ernst asked to see § 87(2)(b)’s medication and if she had anything to drink. § 87(2)(b) denied being on medication or drinking anything. PO Ernst then told § 87(2)(b) that she needed to be taken to

the hospital. § 87(2)(b) responded, “No, I’m not going nowhere. I want to call 911 and have a captain here.” PO Ernst said, “You are not calling nowhere, I can arrest you.” At this point, § 87(2)(b) tried to close the door because she did not want to go to the hospital. PO Ernst stuck his right foot up in the air and blocked the door from closing. PO Ernst put his right elbow on the door to block it from closing. PO Ernst said, “If you don’t want to go to the hospital, I have to arrest you.” § 87(2)(b) said, “For what?” PO Ernst said, “You’re resisting police.” § 87(2)(b) then said, “I’ll go.” PO Ernst stood with his right foot inside § 87(2)(b)’s apartment and left foot in the corridor. In her interview, § 87(2)(b) was unclear about when and how exactly PO Ernst’s foot came to be in her apartment; she would often contradict herself.

§ 87(2)(b) did not make any FADO allegations in her initial call with IAB on October 24, 2016. In § 87(2)(b)’s phone statement on January 9, 2017, § 87(2)(b) also alleged that PO Ernst stuck his foot inside her apartment. § 87(2)(b) stated that PO Ernst called her a “stupid crazy woman” but did not allege that PO Ernst stated she was “acting crazy.” § 87(2)(b) did not allege a threat of arrest in her phone statement.

PO Ernst (Board Review 06) and PO Trotta (Board Review 07) both corroborated that § 87(2)(b) called 911 multiple times on October 21, 2016 and that when dispatch called her back, § 87(2)(b) would not answer her phone. In the police car, PO Ernst called § 87(2)(b) and was able to obtain § 87(2)(b)’s address from the computer in the car. Neither PO Ernst nor PO Trotta recalled receiving any 911 calls regarding § 87(2)(b)’s behavior in the corridor. Both PO Ernst and PO Trotta testified that there were stains and cockroaches on the walls of § 87(2)(b)’s apartment and that it appeared very dirty. § 87(2)(b) voluntarily went to the hospital after being asked by PO Ernst if she wanted to go. Both PO Ernst and PO Trotta denied that PO Ernst told § 87(2)(b) that she was “acting crazy” or called her crazy at any point. PO Ernst and PO Trotta denied that § 87(2)(b) could be arrested for anything or that PO Ernst told § 87(2)(b) “If you don’t want to go to the hospital, I have to arrest you.” PO Ernst and PO Trotta denied that § 87(2)(b) ever tried to close the door and as a result, PO Ernst stuck his foot in § 87(2)(b)’s apartment to prevent her from doing so. PO Ernst never crossed the threshold of § 87(2)(b)’s apartment.

PO Ernst testified that when he called § 87(2)(b) in the car, she was nonsensically rambling although he could not exactly recall what she said. The phone conversation established in his mind that, “She is crazy. She is an EDP...I was like wow, you know I was just blown away, basically.” When § 87(2)(b) opened the door, PO Ernst observed cockroaches, snot, and feces on the walls of her apartment. PO Ernst stood in the threshold of the door in order to make sure the apartment was safe. PO Ernst makes a practice of standing in the threshold of people’s doors in order to ensure his safety. PO Ernst could not see much of the interior of § 87(2)(b)’s apartment. PO Ernst was “kind of grossed out by the whole situation.” PO Ernst described § 87(2)(b)’s demeanor upon answering the door as, “Just crazy. This crazy old woman.” § 87(2)(b) was able to verbalize her thoughts. § 87(2)(b) seemed dirty. PO Ernst has worked for the NYPD for 20 years and he “knows crazy when he sees it” and § 87(2)(b) was crazy. PO Ernst felt that § 87(2)(b) was unable to care for herself in a humane way, although PO Ernst could not elaborate on this. § 87(2)(b) may have mentioned to PO Ernst that she was depressed. § 87(2)(b) did not say that she was sick. § 87(2)(b) did not mention anything else about why she called 911. PO Ernst did not recall saying to § 87(2)(b) that he heard she was,

“acting out.” PO Ernst may have asked § 87(2)(b) if she was on any type of medication because that is usually what he does with EDPs. PO Ernst stated that it was possible that he asked § 87(2)(b) if she had anything to drink. PO Ernst asked § 87(2)(b) if she wanted to go to the hospital. § 87(2)(b) did not say yes or no or maybe but reacted in a neutral way. PO Ernst told § 87(2)(b) that maybe it would be better if she went to the hospital. PO Ernst tried to “coax her into making that right decision.” PO Ernst did not recall if § 87(2)(b) ever requested a captain to arrive. PO Ernst never told § 87(2)(b) that she was resisting police. PO Ernst never asked § 87(2)(b) if he could come in her apartment. The AIDED report prepared by PO Ernst stated § 87(2)(b) was a voluntary EDP. (Board Review 09)

PO Trotta testified that when § 87(2)(b) opened her apartment door, PO Ernst was standing a few feet in front of the door, to the right of it. PO Trotta stood behind PO Ernst. § 87(2)(b) was dressed and appeared healthy. PO Trotta could not describe § 87(2)(b)'s demeanor. § 87(2)(b)'s living conditions appeared unhealthy to PO Trotta because the apartment was very dirty; there were cockroaches everywhere and unidentifiable stains on the walls. PO Ernst asked § 87(2)(b) if she was okay and why she kept calling 911. PO Trotta believed § 87(2)(b) was an EDP because of her mumbling and her conversation was all over the place, although PO Trotta could not recall specifics. After approximately five minutes, PO Ernst asked § 87(2)(b) if she wanted to go the hospital. § 87(2)(b) said, “Oh, okay.” At this point, PO Ernst called for EMS. PO Ernst asked § 87(2)(b) if she wanted to wait outside; § 87(2)(b) responded affirmatively.

Patrol Guide Procedure 203-09 requires that officers be courteous and respectful in their interactions with the public. (Board Review 10) Patrol Guide Procedure 208-01 states that an officer may arrest someone, “for an offense when reasonable cause to believe offense committed in his presence.” (Board Review 11)

§ 87(2)(b), § 87(2)(g). In her phone statement, § 87(2)(b) stated that PO Ernst called her a “stupid crazy woman”; § 87(2)(b) did not allege a threat of arrest in her phone statement. § 87(2)(b) later testified in her CCRB in-person statement that PO Ernst accused her of “acting crazy” and told her if she did not go to the hospital, she could be arrested. PO Ernst and PO Trotta both denied these allegations or that PO Ernst referred to § 87(2)(b) as “crazy” at anytime. They both stated there was nothing § 87(2)(b) could have been arrested for. § 87(2)(b), § 87(2)(g)

§ 87(2)(b). Throughout his interview with the CCRB, PO Ernst repeatedly referred to § 87(2)(b) as “crazy”, calling her a “crazy old woman.” It is possible that PO Ernst called § 87(2)(b) “crazy” at some point during their interaction. PO Ernst also stated that he was “kind of grossed out by the situation” and that he tried to “coax her into making the right decision” by telling her that he thought she should go to the hospital. § 87(2)(b), § 87(2)(g)

Officers may enter a home without a warrant under the emergency doctrine when there is a substantial threat or imminent danger to life, health, or property. People v. Rogers 184 Misc. 2d 419 (2000) (Board Review 12)

§ 87(2)(b), § 87(2)(g)

Both PO Trotta and PO Ernst both denied that § 87(2)(b) ever tried to close the door on them and stated that PO Ernst never put his foot in § 87(2)(b)'s apartment to prevent her from doing so. PO Ernst stated he was standing in the threshold but never crossed it. § 87(2)(b), § 87(2)(g)

Allegation D- Abuse of Authority: Police Officer Tina Trotta refused to provide her shield number to § 87(2)(b)

Allegation E-Discourtesy: Police Officer Tina Trotta spoke discourteously to § 87(2)(b)

Allegation F-Offensive Language: Police Officer Tina Trotta made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

On January 17, 2017, five days after her sworn statement, § 87(2)(b) called the undersigned and made additional allegations against PO Trotta. § 87(2)(b) stated that while walking down the stairs of her building, § 87(2)(b) asked PO Trotta, "Can I please have your shield number?" PO Trotta allegedly told her that she'd get it downstairs. While they were downstairs waiting for the ambulance, § 87(2)(b) again asked PO Trotta if she could get her shield number. PO Trotta allegedly responded, "Fucking bitch, we'll go to the hospital and get it." § 87(2)(b) did not make any of these allegations in her initial complaint to IAB, her phone statement to the CCRB, and in her interview with the CCRB.

On January 17, 2017, § 87(2)(b) called the undersigned 17 times. § 87(2)(b) was highly upset and emotional. § 87(2)(b) made comments relating to the undersigned's perceived religion. (Please see the potential issues section.)

PO Ernst did not recall if § 87(2)(b) ever asked for PO Trotta's shield number. PO Ernst stated that PO Trotta never told § 87(2)(b) "Fucking bitch, we'll go to the hospital and you'll get it." PO Trotta never used any profanity toward § 87(2)(b)

PO Trotta denied that § 87(2)(b) ever asked for her shield number and denied saying, "Fucking bitch, we'll go to the hospital and you'll get it."

§ 87(2)(b), § 87(2)(g)

Signature	Print	Date
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Title/Signature	Print	Date
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Title/Signature	Print	Date
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